

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

CRP.No. 379 of 2006(A)

AGAINST THE ORDER DATED 05/12/2005 IN EP.NO.1376/2004 IN
OS.598/2003 of PRL.M.C.,IRINJALAKUDA
.....

REVN. PETITIONER/RESPONDENTS 2 AND 3/JUDGMENT DEBTORS 2 AND 3::

1. CHANDRAN, S/O. CHATHUNNI,
MANAPETTI HOUSE, KATTUNGACHIRA DESOM,
IRINJALAKUDA VILLAGE, MUKUNDAPURAM TALUK.
2. VIJAYAN, S/O. MANAPETTY GOPALAN,
THALIYAKKONAM DESOM, PORATHASSERY VILLAGE,
MUKUNDAPURAM TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENT/PETITIONER/DECREE HOLDER

ISLAND KURIES (P) LTD.,
MANAVALASSERY VILLAGE, MUKUNDAPURAM TALUK,
REP. BY ITS MANAGING DIRECTOR SUGATHAN,
S/O. MANAPETTY KOCHAKKAN, PORATHASSERY VILLAGE
DESOM, MUKUNDAPURAM TALUK.

BY ADV. SRI.RAJESH CHAKYAT

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

C.R.P.379/06

ORDER ON I.A.1613/06 IN C.R.P.379/06
DISMISSED

20.12.06

SD/-M.SASIDHARAN NAMBIAR, JUDGE.

M.SASIDHARAN NAMBIAR, J .

C.R.P.NO.379 OF 2006

DATED THIS THE 20th DAY OF DECEMBER, 2006

JUDGMENT

Petitioners are judgment debtors 2 and 3 in O.S.No.598/03. They are challenging the order of arrest passed by the executing Court on 5.12.05. As per order dated, 25.8.06, petitioners were directed to deposit Rs.5,000/- before the executing Court. Learned Counsel appearing for petitioners submitted that the amount was deposited.

2. Learned Counsel appearing for petitioners and respondent were heard.

3. The order of the executing Court dated, 5.12.05, does not show that petitioners have either raised a plea of no means or the executing Court considered the question whether they have sufficient means to pay the decree debt and willfully neglected to pay the same, before passing the order of arrest. Executing Court is bound to consider this question before an order for arrest is passed. Leaned Counsel appearing for petitioners submitted that they have filed an objection before the executing Court contending that they have no means. In such circumstances, impugned order is set aside.

Executing Court is directed to consider the plea of no means and pass appropriate order in accordance with law.

M.SASIDHARAN NAMBIAR, JUDGE

Acđ